

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Casey McCann	Team: Squad #11	CCRB Case #: 201808371	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 10/01/2018 12:23 AM	Location of Incident: PSA 1 stationhouse	Precinct: 60	18 Mo. SOL 4/1/2020	EO SOL 11/16/2020	
Date/Time CV Reported Mon, 10/01/2018 3:35 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 10/10/2018 11:17 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jared Martinez	13394	959795	PSA 1
2. POM Richard Sicuranza	21084	959231	PSA 1

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Errol Thomas	19309	959295	PSA 1
2. POM Anthony Crupi	06111	956556	PSA 1
3. POM David Yee	01004	953589	PSA 1
4. SGT Robert Ellington	04971	902755	PSA 1
5. SGT Yury Kravchik	577	945889	PSA 1

Officer(s)	Allegation	Investigator Recommendation
A.POM Jared Martinez	Discourtesy: Police Officer Jared Martinez spoke discourteously to § 87(2)(b)	
B.POM Richard Sicuranza	Force: Police Officer Richard Sicuranza used physical force against § 87(2)(b)	
C.POM Jared Martinez	Force: Police Officer Jared Martinez used physical force against § 87(2)(b)	
D.POM Richard Sicuranza	Abuse: Police Officer Richard Sicuranza threatened § 87(2)(b) with the use of force.	
E.POM Jared Martinez	Abuse: Police Officer Jared Martinez refused to provide his shield number to § 87(2)(b)	

Case Summary

On October 1, 2018, Captain Elissa Carlies of the 78th Precinct filed this complaint with IAB via telephone on behalf § 87(2)(b).

On October 1, 2018, at approximately 12:23 a.m., at Police Service Area 1's (PSA 1) stationhouse, Police Officer Jared Martinez of PSA 1 spoke discourteously to § 87(2)(b) (**Allegation A: Discourtesy**, § 87(2)(g)). Police Officer Richard Sicuranza, also of PSA 1, used physical force against § 87(2)(b) (**Allegation B: Force**, § 87(2)(g)). PO Martinez used physical force against § 87(2)(b) (**Allegation C: Force**, § 87(2)(g)). PO Sicuranza threatened § 87(2)(b) with the use of force (**Allegation D: Abuse of Authority**, § 87(2)(g)). PO Martinez refused to provide his shield number to § 87(2)(b) (**Allegation E: Abuse of Authority**, § 87(2)(g)).

§ 87(2)(b) was arrested for § 87(2)(b).

Findings and Recommendations

Allegation (A) Discourtesy: Police Officer Jared Martinez spoke discourteously to § 87(2)(b)

The following facts are undisputed:

On October 1, 2018, at 12:09 a.m., § 87(2)(b) and his two friends, § 87(2)(b) and § 87(2)(b) were arrested for smoking marijuana in front of 147 Richards Street in Brooklyn. PSA 1 Anti-Crime officers, including PO Martinez, PO Sicuranza, Police Officer Errol Thomas, Police Officer Anthony Crupi, Police Officer David Yee, and Sergeant Yury Kravchik, were at the scene of the arrests. PO Martinez and PO Sicuranza transported § 87(2)(b) and § 87(2)(b) back to PSA 1's stationhouse. In front of the desk area, PO Martinez spoke discourteously to § 87(2)(b) and used physical force to take him to the ground. § 87(2)(b) was ultimately transported to § 87(2)(b). § 87(2)(b) and § 87(2)(b) were released.

§ 87(2)(b) provided a telephone statement (BR 04), but did not say that PO Martinez or any other officer spoke discourteously to him during the incident.

§ 87(2)(b) and § 87(2)(b) both provided telephone statements before becoming uncooperative. § 87(2)(b) (BR 05) did not mention that PO Martinez used profanity during the incident. § 87(2)(b) (BR 06) said that PO Martinez told § 87(2)(b) to "shut the fuck up," after § 87(2)(b) was taken to the ground.

PO Thomas' body-worn camera footage (BR 07-08) captures PO Martinez searching § 87(2)(b) in front of the desk. The relevant portion of the footage is embedded below:



PO Thomas BWC - IA 76.mp4

The footage begins with PO Martinez searching § 87(2)(b) who is on PO Martinez's right. Only § 87(2)(b)'s left arm is visible in the footage. PO Martinez's right arm is underneath § 87(2)(b)'s arms, so that § 87(2)(b)'s arms are raised. § 87(2)(b) is handcuffed at this time. § 87(2)(b) says, "Why are you still doing that, bro?" to which PO Martinez responds, "Because I don't know, man. You were talking a lot of shit in the car so you might be a liability. If I let you go I don't know if you're gonna try to do something" (<<00:24:22 – 00:24:34>>).

PO Yee also captured the incident on his body-worn camera. The relevant footage is embedded below (BR 08-09):



PO Yee - IA 139 (disc.).mp4

The video clip begins with PO Martinez continuing to search § 87(2)(b) after taking § 87(2)(b) to the ground, which will be analyzed below. PO Martinez asks an officer, who is not pictured, to cut the string on § 87(2)(b)'s pants. After the string is cut, § 87(2)(b) says, "Stop doing everything rough, too. Calm down. You a grown ass man, pussy. You would not do this to my pops." PO Martinez responds, "Don't spit in my face. I'll do it to whoever the fuck I have to" (<<00:27:28 – 00:27:37>>).

PO Martinez (BR 10) did not recall using any profanity during the incident. PO Martinez reviewed PO Thomas' body-worn camera footage and said that he used the phrase "talking shit" in a similar way to "talking smack," and did not mean it discourteously. PO Martinez could not provide an explanation to why he used the word "fuck" after reviewing PO Yee's body-worn camera footage.

Profanity used by police officers has been found to be permissible where the officer has resorted to such language in the heat of a highly dangerous situation. Disciplinary Case No. 2013-10143 (BR 11).

§ 87(2)(g)
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Allegation (B) Force: Police Officer Richard Sicuranza used physical force against § 87(2)(b)

During his telephone statement (BR 04), § 87(2)(b) alleged that PO Sicuranza punched him in the neck before PO Martinez took him to the ground.

PO Yee's body-worn camera footage (embedded below – BR 08, 12) shows PO Sicuranza's hand on § 87(2)(b)'s shoulder area. § 87(2)(b)'s head is turned toward PO Sicuranza, causing PO Sicuranza's hand to rest near § 87(2)(b)'s chin area. § 87(2)(b) quickly moves toward PO Sicuranza so that he is inches from PO Sicuranza's face. PO Martinez then pulls § 87(2)(b) away. PO Yee walks around the desk (<<00:25:12 – 00:25:25>>). § 87(2)(b) is on his stomach at this point and yelling, "Ah!" repeatedly. PO Martinez's left knee is on top of § 87(2)(b)'s back and § 87(2)(b)'s arms are raised. PO Martinez says repeatedly, "Are you good now?" § 87(2)(b) says, "Take me to the hospital. I'm not good" (<<00:25:25 – 00:25:30>>).



PO Yee BWC- IA 77.mp4

According to PO Yee's body-worn camera footage, PO Sicuranza does not punch § 87(2)(b) in the neck. Rather, PO Sicuranza's hand is on top of § 87(2)(b)'s shoulder area and because § 87(2)(b)'s head is turned toward PO Sicuranza, PO Sicuranza's hand is close to § 87(2)(b)'s chin and neck area. § 87(2)(g)
 [REDACTED]
 [REDACTED]

Allegation (C) Force: Police Officer Jared Martinez used physical force against § 87(2)(b)

According to § 87(2)(b) (BR 04), after PO Sicuranza punched him, PO Martinez and PO Sicuranza took him to the ground and put their knees in his back. § 87(2)(b) screamed due to neck and back pain.

In their telephone statements, § 87(2)(b) (BR 05) and § 87(2)(b) (BR 06) said that PO Martinez took § 87(2)(b) to the ground by grabbing his shoulders or arms. § 87(2)(b) added that § 87(2)(b) complained of pain on the ground.

As discussed in Allegation B, PO Yee's body-worn camera footage (BR 08, 12) captures the events leading up to PO Martinez taking § 87(2)(b) to the ground.

PO Thomas' body-worn camera footage (see Allegation A) provides a different angle of the incident. PO Thomas' camera is on the desk facing toward PO Martinez, § 87(2)(b) and § 87(2)(b). Only § 87(2)(b)'s left arm is in the frame. PO Martinez has his right arm underneath § 87(2)(b)'s handcuffed wrists, so that § 87(2)(b)'s arms are raised. § 87(2)(b) says, "Stop trying to break my arm." PO Martinez responds, "Don't try and flex up on me." § 87(2)(b) replies, "Yo, you're breaking my arm." PO Martinez says, "I'm not breaking nothing. Are you a doctor?" (<<00:24:48 – 00:24:53>>). § 87(2)(b) says, "Get your fist out my face," and jerks toward the left side of the screen. PO Martinez pulls § 87(2)(b) downward with his arm still hooked underneath § 87(2)(b)'s left arm. § 87(2)(b) does not break free of PO Martinez's grip. PO Sicuranza's right arm is hooked underneath § 87(2)(b)'s right arm, but as § 87(2)(b) goes to the ground, PO Sicuranza moves his arm from underneath § 87(2)(b)'s arm, so that he is no longer touching § 87(2)(b). The video does not capture how § 87(2)(b) lands on the ground (<<00:25:16 - 00:25:22>>).

PO Martinez (BR 10) said at the scene of § 87(2)(b)'s arrest, PO Crupi escorted § 87(2)(b) to the prisoner van for transport. § 87(2)(b) broke free from PO Crupi's grip and refused to go inside the prisoner van. § 87(2)(b) ultimately went inside the van on his own accord. PO Martinez and PO Sicuranza transported § 87(2)(b) and § 87(2)(b) to the stationhouse. During the transport, § 87(2)(b) cursed at PO Martinez and PO Sicuranza and made statements such as, "When I get the cuffs off, watch."

At the stationhouse, PO Martinez brought § 87(2)(b) to the desk to be searched. PO Martinez looped his arm in between § 87(2)(b)'s handcuffed arm so that § 87(2)(b) could not break away from PO Martinez's grip. § 87(2)(b) did not try to break away from PO Martinez, but because § 87(2)(b) broke free from PO Crupi at the scene of his arrest, PO Martinez thought there was a chance § 87(2)(b) would attempt to get away from him. PO Sicuranza also held § 87(2)(b) but PO Martinez did not see how PO Sicuranza held him.

When PO Martinez took off § 87(2)(b)'s du-rag, § 87(2)(b) lunged toward PO Sicuranza, but did not break away from PO Martinez's grip. § 87(2)(b) did not make contact with PO Sicuranza. PO Martinez then "helped" § 87(2)(b) to the floor by keeping his arm looped under § 87(2)(b)'s arm and guiding him toward the floor. This motion was "automatic" and only in response to § 87(2)(b) lunging toward PO Sicuranza. PO Martinez did not remember how § 87(2)(b) landed on the ground.

After reviewing PO Yee's body-worn camera footage, PO Martinez explained that he put his knee on § 87(2)(b)'s back and raised § 87(2)(b)'s arms to maintain control over § 87(2)(b)'s body and prevent § 87(2)(b) from getting off the ground. § 87(2)(b) had not tried to get off the ground. PO Martinez did not place any pressure on § 87(2)(b) using his knee because if he did so, § 87(2)(b) would not be able to talk or breathe.

PO Martinez's TRI (BR 11) notes that § 87(2)(b) "used force to break free from officer's grip" and that the force was used to overcome § 87(2)(b)'s resistance and aggression. PO Martinez explained that § 87(2)(b) never broke free from his grip, but he noted this because § 87(2)(b) attempted to do so.

Force may be used when it is reasonable to ensure the safety of a member of service or when it is reasonable to prevent escape from custody. In all circumstances, any application or use of force must be reasonable. NYPD Patrol Guide Procedure 221-01 (BR 12).

Members of the service shall not use any level of force on handcuffed or otherwise restrained subjects unless necessary to prevent injury, escape, or to overcome active physical resistance or assault. NYPD Patrol Guide Procedure 221-02 (BR 13).

Active resisting includes physically evasive movements to defeat a member of the service's attempt at control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained into custody. NYPD Patrol Guide Procedure 221-02 (BR 14).

§ 87(2)(g)

§ 87(2)(g)

Allegation (D) Abuse of Authority: Police Officer Richard Sicuranza threatened § 87(2)(b) with the use of force.

§ 87(2)(b) and § 87(2)(b) (BR 04-06) did not say that an officer threatened § 87(2)(b) with the use of force in their respective telephone statements.

PO Thomas' body-worn camera footage (BR 08, 14), which is below, captures § 87(2)(b) being lifted off the ground. PO Sicuranza says, "You check him good?" to which § 87(2)(b) who is out-of-frame, says, "I have nothing on me." PO Sicuranza asks § 87(2)(b) "You have nothing in your mouth. Right, sir?" § 87(2)(b) says, "What? You want to check?" and moves his mouth as though he is going to spit. PO Sicuranza jerks his head backward and says, "If you do that, it's going to be the last thing that happens." § 87(2)(b) replies, "Oh. He threatened my life" (<<00:26:54 – 00:27:06>>).



PO Thomas - IA 145.mp4

PO Sicuranza (BR 15) said that once § 87(2)(b) was off the ground, § 87(2)(b) told him he was going to spit on him. PO Sicuranza responded verbally to § 87(2)(b) but he did not remember what he said. After reviewing PO Thomas' body-worn camera footage, PO Sicuranza said he

asked § 87(2)(b) if he had anything in his mouth because § 87(2)(b) was “moving his spit forward” in his mouth, which made PO Sicuranza believe § 87(2)(b) may have had something in his mouth. PO Sicuranza moved his head back because he thought § 87(2)(b) was going to spit on him. PO Sicuranza further explained that by saying, “If you do that, that’s going to be the last thing that happens,” he meant that § 87(2)(b) would have more charges added to his arrest. PO Sicuranza could not specify which charges would be added to § 87(2)(b)’s arrest, but when his counsel suggested assault in the second degree, PO Sicuranza agreed.

§ 87(2)(g)

Allegation (E) Abuse of Authority: Police Officer Jared Martinez refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) (BR 04) said that after he was taken to the ground, he asked PO Martinez for his shield number, to which PO Martinez replied, “You can read it.” PO Martinez was far away and § 87(2)(b) could not read his shield number.

§ 87(2)(b) could not provide distinctive physical description of the officers involved, but did specify that the officer who refused to provide him with his shield number had tattoos. PO Thomas’ body-worn camera footage shows a tattoo on PO Martinez’s right upper arm (BR 18). As such, PO Martinez was identified as the subject officer.

§ 87(2)(b) and § 87(2)(b) (BR 05-06) did not mention hearing § 87(2)(b) ask for PO Martinez’s shield number and did not mention PO Martinez refusing to provide it.

PO Martinez (BR 10) said that § 87(2)(b) never asked for his shield number and he never refused to provide it to him.

None of the body-worn camera footage pertaining to this incident showed § 87(2)(b) asking for PO Martinez’s shield number.

§ 87(2)(g)

Allegations Not Pleaded

As discussed in Allegation A, PO Yee’s body-worn camera footage (BR 08-09) captures an officer cut the strings off of § 87(2)(b)’s pants before § 87(2)(b) is lodged in the cell area. As procedurally prisoners cannot be lodged in the cell with any form of strings or laces, a property damage allegation was not pleaded.

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 03).
- PO Martinez has been a member of service for three years and has been a subject in two CCRB complaints and three allegations, none of which was substantiated. § 87(2)(g)
- PO Sicuranza has been a member of service for three years and has been a subject in two CCRB complaints and seven allegations, none of which was substantiated.

- 201806889 is pending Board review and includes allegations of a vehicle search, property damage, discourtesy, frisk, and search against PO Sicuranza.
- § 87(2)(g) [REDACTED]

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of December 20, 2018, the Office of the New York City Comptroller has no record of a Notice of Claim being filed in regard to this complaint (BR 01).
- § 87(2)(b) [REDACTED]

Squad No.: _____

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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